

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

UNITED STATES OF AMERICA)
) Case No. 5:98CR30001
v.)
)
) **OPINION AND ORDER**
WILLIAM MCKINLEY JACKSON)
BAILEY,) By: James P. Jones
) Chief United States District Judge
 Defendant.

On March 25, 1999, the court sentenced the defendant in connection with a crack cocaine conviction. In so doing, the court considered the federal sentencing guidelines as required under 18 U.S.C. § 3553(a).

Pursuant to its statutory authority, the United States Sentencing Commission has amended the federal advisory sentencing guidelines applicable to criminal cases involving cocaine base or crack cocaine, effective November 1, 2007. On December 11, 2007, the Sentencing Commission further decided that, effective March 3, 2008, the amended guideline provisions will apply retroactively to offenders who were sentenced under prior versions of the sentencing guidelines, and who are still incarcerated. Stated generally, the practical effect of the Sentencing Commission's actions is that certain federal defendants convicted of offenses involving crack cocaine may be eligible for a reduction in their current sentences, pursuant to the provisions of 18 U.S.C. § 3582(c)(2).

On March 7, 2008, the court received a letter from the defendant which the court treated as a Motion to Reduce Sentence pursuant to § 3582(c)(2).

Having considered the defendant's Motion to Reduce Sentence, the court concludes that the motion must be denied. The defendant plead guilty to conspiracy to distribute cocaine base, in violation of 21 U.S.C. § 846. In accord with the plea agreement, the defendant was held responsible for at least 150 grams but less than 500 grams of crack cocaine. Under the amended guidelines, the defendant has a base offense level of 32. The defendant received a 4-level increase for his role in the conspiracy and a 3-level reduction for accepting responsibility. Therefore, the defendant's Total Offense Level is 33. With a Criminal History Category of IV, the amended guidelines recommend a term of imprisonment between 188 and 235 months. Congress, however, has mandated that offenses involving more than fifty grams of crack cocaine be punished by a minimum of 20 years. Because the defendant was sentenced to 240 months, the statutory mandatory minimum, this court is without authority to reduce his sentence.

Accordingly, it is **ORDERED** that the defendant's Motion to Reduce Sentence (Doc. No. 209) is **DENIED**.

The Clerk will send copies of this order to the defendant at his place of confinement and to the United States Attorney's Office.

ENTER: March 13, 2008

/S/ JAMES P. JONES
Chief United States District Judge